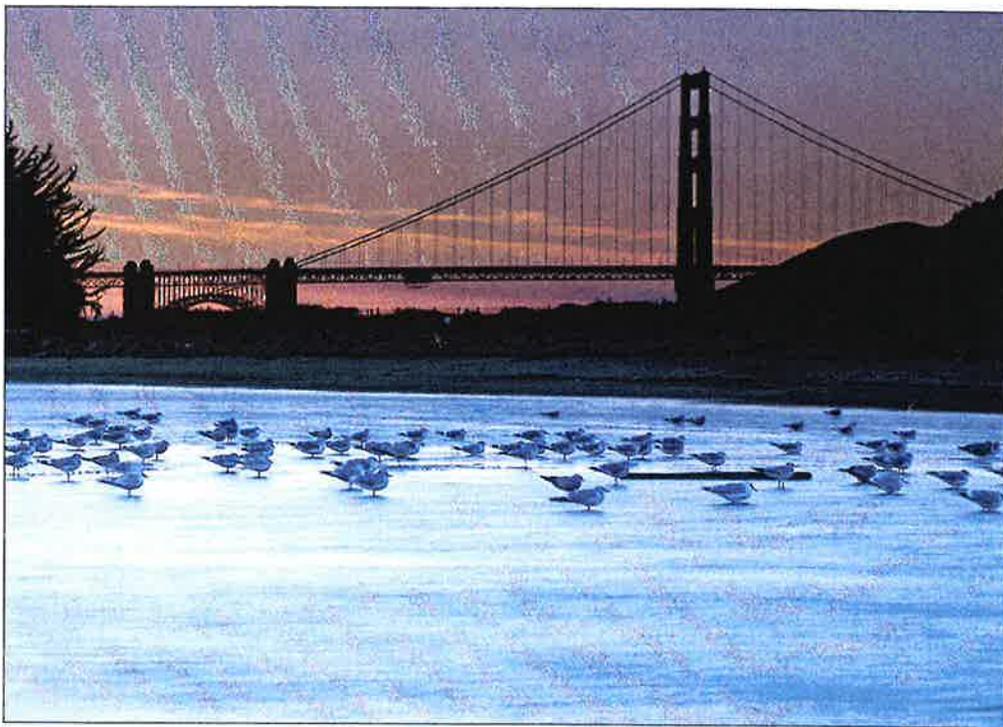


# ANNUAL REPORT



*making San Francisco Bay better*

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

## DEDICATION

The San Francisco Bay Conservation and Development Commission dedicates its 2001 annual report to Harold Gilliam. Mr. Gilliam wrote the 1957 book, *San Francisco Bay*, which dramatically described the majesty of the Bay and provided the public with an early warning of the vulnerability of the Bay. In 1966 he penned *Between the Devil and the Deep Blue Bay*, a record of the citizens' movement to Save the Bay. For several decades, he wrote about the Bay and its resources in his weekly column in the *San Francisco Chronicle*, contributing greatly to the appreciation and understanding of its workings and beauty. Mr. Gilliam claims to have retired but still speaks out when the Bay he loves is threatened.

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The 2001 Annual Report was written by Commission staff. Report coordination, design, editing and production by Cinamon Vann and Yuki Kawaguchi.

Cover photo: Restored tidal wetlands and the Golden Gate Bridge. © David Sanger.

**SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

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Governor Davis and Members of the California Legislature

**SUBJECT: 2001 Annual Report**

It is with great pleasure that I submit the 2001 Annual Report of the San Francisco Bay Conservation and Development Commission describing our work under the McAteer-Petris Act, the Suisun Marsh Preservation Act, the federal Coastal Zone Management Act, and the California Oil Spill Prevention and Response Act.

Our Commission joined with all Californians and Americans facing the challenges and tragedies of 2001. We worked as part of the family of California government agencies to help increase the State's energy supply and to reduce our use of electrical power. We offered our full support and cooperation to enhance security after the September 11 terrorist attacks. Additionally, we continued our efforts to help the Bay Area better prepare for a seismic emergency by unanimously approving a permit to replace the east span of the Bay Bridge with a new seismically safe bridge that will remain operational after another major earthquake.

The new portion of the bridge will connect Oakland to Yerba Buena Island. It will be 2.18 miles long and provide five eastbound and five westbound traffic lanes on separated structures. Each bridge deck will include two 10-foot-wide shoulders; a 10.5-foot-wide, two-way bicycle lane; and a five-foot-wide pedestrian lane. The bicycle/pedestrian path will extend from the toll plaza at the eastern end of the bridge to Yerba Buena Island. Six scenic overlooks also will be provided on the south side of the eastbound traffic lanes.

The Commission also issued a marsh development permit to Montezuma Wetlands, LLC, to use dredged materials to restore 1,782 acres of tidal wetlands and create 48 acres of diked managed marsh on a site near Collinsville in the Suisun Marsh, Solano County. This project will advance the Commission's goal of reusing material dredged from San Francisco Bay instead of dumping the dredge spoils back into the Bay. The project will use 17 million cubic yards of dredged materials to raise the site's elevation so marsh vegetation will grow there. The project also includes a dredged material rehandling facility and two public access areas.

The Commission's continued dedication to protecting and enhancing San Francisco Bay, while promoting suitable development, is evident in our record in 2001. Last year we approved 14 major projects, denied no applications, and administratively approved 67 permits and consistency determinations, which authorized a variety of activities in the Bay and along its shoreline. We authorized approximately \$2.77 billion worth of construction, and our permits resulted in a net increase of 5,649 acres of Bay surface. Public access was increased by 34.8 acres along 11.1 miles of shoreline.

BCDC continued its partnership with other regional agencies and the Bay Area Alliance for Sustainable Development to develop a smart growth strategy for the fast-growing Bay region.

BCDC remains committed to the efforts to make San Francisco Bay a healthy, productive ecosystem. We look forward to the challenges ahead and will continue to work to sustain the Bay for future generations.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Kaufman".

BARBARA KAUFMAN  
Chair

## BACKGROUND

In 1965, the California Legislature created the 27-member Bay Conservation and Development Commission (BCDC) in response to broad public concern over the future of San Francisco Bay. The McAteer-Petris Act, the Commission's enabling legislation, required the Commission to prepare "a comprehensive and enforceable plan for the conservation of San Francisco Bay and the development of its shoreline." In 1969, the Commission submitted the completed *San Francisco Bay Plan* to the Governor and the Legislature. The McAteer-Petris Act was subsequently amended to give the Bay Plan the force of law. Since then there have been several changes to the Bay Plan, including the adoption of several Special Area Plans.

The law directs the Commission to:

- Regulate all filling and dredging in San Francisco Bay (which includes San Pablo and Suisun Bays, sloughs and certain creeks and tributaries that are part of the Bay system, salt ponds and certain other areas that have been diked-off from the Bay).
- Protect the Suisun Marsh, the largest remaining wetland in California, by administering the Suisun Marsh Preservation Act in cooperation with local governments.
- Regulate new development within the first 100 feet inland from the Bay to ensure that maximum feasible public access to the Bay is provided.
- Minimize pressures to fill the Bay by ensuring that the limited amount of shoreline area suitable for high priority water-oriented uses is reserved for ports, water-related industries, water-oriented recreation, airports and wildlife areas.
- Pursue an active planning program to study Bay issues so that Commission plans and policies are based upon the best available current information.
- Administer the federal Coastal Zone Management Act within the San Francisco Bay segment of the California coastal zone to ensure that federal activities reflect Commission policies.
- Participate in the regionwide state and federal program to prepare and implement a Long Term Management Strategy (LTMS) for dredging and dredge material disposal in San Francisco Bay.
- Participate in California's oil spill prevention and response planning program.

- Develop, in cooperation with local governments, a North Bay Wetlands and Agriculture Protection Program.

## STRATEGIC PLAN

In December 1995, the Commission adopted its first strategic plan, which included a mission statement, ongoing and three-year goals, and short term objectives for reaching these goals. The Commission subsequently created task forces comprised of Commission members and staff to implement the three-year goals. Work began on achieving specific objectives in 1996, and on June 21, 2001, the Commission adopted an updated strategic plan containing the following elements.

### Vision Statement

The Bay Conservation and Development Commission will be relied upon to lead in achieving a larger, healthier Bay.



Restored tidal marsh and enhanced public access at Crissy Field.  
© David Sanger

### Mission Statement

The San Francisco Bay Conservation and Development Commission is dedicated to the protection and enhancement of San Francisco Bay and to the encouragement of the Bay's responsible use.

### Ongoing Goals

- Encourage and support appropriate development of the Bay shoreline.

- Maximize public access where compatible with resource protection.
- Prevent unnecessary Bay fill.
- Promote optimum use and management of Bay resources.

### Three-Year Goals

- Develop and implement a responsible and effective funding strategy.
- Increase understanding of BCDC's mission, jurisdiction and authority.
- Improve and implement BCDC's program for protection, use and restoration of Bay resources.
- Improve BCDC's compliance and enforcement program.
- Work collaboratively with others to achieve an effective, efficient baywide planning and regulatory program.

### Core Values

- Effective, timely and responsive communication
- Excellence in staff, process and Commission decision-making
- Integrity, honesty, adherence to the law and fairness in our process and consideration of all viewpoints
- Leadership and devotion to the protection and the enhancement of the Bay
- Open, public process
- Mutual trust and respect among staff, Commissioners, our partners and the public
- Partnerships with other agencies and groups

### Public Education

When updating the strategic plan in 2001, the Commission reiterated its commitment to increasing understanding of BCDC's mission, jurisdiction and authority. To further this commitment, the Commission adopted a public education program and outreach strategy and requested additional General Fund support to carry out this program and strategy. Because of state budget constraints, no additional funds will be available for this program. However, using existing resources over the past year, the Commission continued to improve its website and to support a partnership to produce a video documentary about San Francisco Bay.

### BCDC Website

The Commission established a basic website in 1999 to provide easy access to information about BCDC. The website has proven to be a cost-effective medium for providing information to the public. It routinely draws approximately 50 visits per day, with the number of visits climbing dramatically when new reports are published on-line or when the Commission is featured in a news article or program.

Recognizing that its website is an important tool for its public information program, in 2000 the Commission adopted a strategic plan element calling for the on-line publication of all Commission plans, key background reports, and other current and archival information that the public and the Commission's partners may find useful. This objective was achieved in 2001.

### San Francisco Bay Video Documentary

As part of its public outreach program, the Commission decided that producing a video to document the historical efforts that led to the establishment of the Commission would help increase public awareness of San Francisco Bay issues and BCDC's role in addressing them.

In 1999, the San Jose public television station, KTEH, agreed to produce and broadcast a video documentary about the Bay if BCDC, working with independent producer Ron Blatman, could secure underwriting to finance the production. The television station proposed that BCDC would not have to provide any direct funding for the project, but that BCDC's staff would be expected to provide technical and research assistance. BCDC would not have editorial control over the content of the documentary.

The Commission has been working with Save San Francisco Bay Association, the San Francisco Planning and Urban Research Association, and the Bay Area Council on an underwriting campaign. Production of the documentary is expected to begin in 2002.

## ADVISORY BOARDS AND COMMITTEES

Several advisory boards and committees assist the Commission and its staff. The *Design Review Board* advises the Commission and the staff on whether projects are in accord with the Commission's appearance and design policies and provide maximum feasible public access. It is comprised of prominent architects, landscape architects and planning professionals who are expert in open space and waterfront development issues. The Board met eight times during 2001 and reviewed 19 projects (a decrease from 28 projects reviewed in 2000). Changes were recommended to several projects to ensure the best possible public access, consistent with the Commission's policies on design, appearance and public access.

The *Citizens Advisory Committee* assists and advises the Commission in carrying out its planning responsibilities. Its members represent a broad cross-section of interests concerned with the future of San Francisco Bay and its shoreline. The Committee met four times in 2001.

The *Engineering Criteria Review Board* (ECRB) is a nine-member advisory board comprised of geologists, geotechnical engineers, civil engineers, structural engineers, and architects who specialize in seismic issues and evaluate the engineering aspects of coastal projects. All members volunteer their time to serve on the ECRB and also are employed in private practice, government service and academia. The ECRB advises the Commission on whether proposed projects will be constructed in accordance with sound safety standards that will afford reasonable protection to people and property against hazards from unstable geologic or soil conditions or from flood or storm waters. Typically, only major projects involving fill in the Bay are required to have ECRB review; however, smaller projects that involve difficult or unusual engineering or geologic issues also may be considered. The Board met twice during 2001 and reviewed two projects—the Islais Creek Bridge Retrofit as part of the Muni Third Street Light Rail Transit Project in San Francisco and a preliminary review of the proposed San Francisco International Airport runway reconfiguration.

The *Scientific and Technical Advisory Committee* advises the Commission on accuracy and completeness

## AWARDS

In October 2001, the Commission received two awards for outstanding work in implementing the U.S. Environmental Protection Agency's *San Francisco Estuary Comprehensive Conservation and Management Plan*. One award was for the Public Access and Wildlife Compatibility Project, and the other was for the Long Term Management Strategy for dredging and dredged material disposal in the San Francisco Bay Area. These awards were presented by the Friends of the Estuary at the San Francisco Estuary Project's 2001 State of the Estuary Conference, held in San Francisco.

of scientific information in staff reports. The committee includes experts on wildlife, water quality, transportation, air quality, economics and hydrodynamics. Several government agencies whose programs affect the Bay also are represented.

## REGULATORY

The Commission's regulatory activities cover five broad areas: preapplication assistance, review of environmental documents, application analysis and formal action by the Commission or Executive Director, project monitoring after permits are issued and enforcement actions to deal with violations.

### Preapplication Assistance

Project applicants are encouraged to discuss their proposals with the staff at the earliest possible date. The staff provides a wide range of early assistance that includes answering telephone inquiries, reviewing draft applications, attending meetings with applicants and other government agencies, and preparing reports for the Design Review Board and other committees. Such

processes often take many months for large and complicated projects. In 2001, BCDC received 20 environmental documents and provided comments on 16.

### **Joint Aquatic Resource Permit Application**

The Joint Aquatic Resource Permit Application (JARPA) was developed by a consortium of agencies working with the Association of Bay Area Governments and San Francisco Estuary Project to make the permit application process easier for applicants who require permits from multiple agencies. All the participating agencies agreed to accept the same application form so that applicants can avoid providing identical information on multiple forms. Use of the form is voluntary.

### **Permits**

Dredging, filling, new construction or any substantial change in use of the Bay or shoreline requires a Commission permit to assure that the project complies with State laws administered by the Commission. The Commission's permit process is one of the quickest regulatory programs in State government. Under the provisions of law, failure to act on a permit application within 90 days after it is filed as complete results in automatic granting of the permit.

Projects fall into three categories: major projects or projects that raise policy issues and that are acted upon by the Commission, smaller projects consisting of minor repairs or improvements and that do not raise policy issues, and routine maintenance and improvement activities that have been preauthorized by the Commission in regionwide and abbreviated regionwide permits (these "administrative" permits are issued by the Executive Director).

As part of the Commission's ongoing efforts to provide the public with as much information and time to comment as possible on permit applications, in January 1996, the staff began sending out a chart of all new permit applications received. This application chart provides an early notice of permit applications so interested parties can visit project sites and become familiar with project issues. In 2001, the application

chart was published twice each month noting 115 permit applications received by the staff.

### **Major Projects**

In 2001, the Commission acted on several notable major permit and material amendment applications. The following are descriptions of some of the major actions taken by the Commission.

### **Port Improvements**

The Commission issued a material amendment to Hornblower Cruises and Events and the Port of San Francisco to make improvements to Pier 1/2 and Pier 3 at the Port of San Francisco to provide for a new home port for Hornblower Cruises and Events. The project involves placing new pile-supported barges, reconfiguring an existing parking lot, installing new gangways, and providing approximately 16,250 square feet of new public access and amenities for existing public access areas.

The Commission issued a permit to the Port of San Francisco and Pacific Marine Yachts to operate a charter cruise business and construct associated floats, ramps, office space and public access at Pier 9, in the City and County of San Francisco. A new 3,540-square-foot public access area and a 460-square-foot portion of the Bayside History Walk will be provided.

A permit was issued to the Port of San Francisco and Big "C" Trader for a substantial remodel of the Pier 19-23 connector building. The project will remodel 107,545 square feet of the connector building and adjacent bulkhead buildings to consolidate the existing Foreign Trade Zone offices and light warehouse storage, and will provide an approximately 8,956-square-foot public plaza south of the remodeled connector building.

A material amendment to an existing permit was issued to the Port of Oakland to construct a container wharf at the Berth 59 tug facility. Construction of a container wharf at Berth 59 will require expanding the wharf by 44,000 square feet and deepening the berth to 50 feet. The public access and mitigation required in the original authorization were found to be adequate for the changes authorized in the material amendment.

Summary of Permits, Fill and Mitigation<sup>1</sup>

Year	Major Permits		Minor Permits <sup>2</sup>		Permit Amend- ments <sup>4</sup>	Net Change in Bay Surface <sup>3</sup> (Acres)	Construc- tion <sup>5</sup> (\$000,000)	Public Access <sup>5</sup> (Acres)	Public Access <sup>5</sup> (Miles)
	Granted	Denied	Granted	Denied					
1970	12	1	66	0		- 72.0			
1971	26	4	61	0		- 25.1			
1972	12	3	80	0		- 7.0			
1973	17	1	71	0		- 4.4			
1974	20	0	107	1		+274.0			
1975	10	0	87	0		+5.0	100		
1976	14	0	110	0		- 2.2	43		
1977	20	0	116	0	104	+16.8	100	21.4	
1978	23	1	104	4	90	- 1.9	152	46.1	9.6
1979	34	0	120	2	103	+3.4	93	25.1	
1980	19	1	105	1	101	+30.0	470	134.0	
1981	23	0	134	0	125	+44.5	130	42.2	
1982	26	0	104	0	115	+262.0	379	27.0	5.0
1983	23	0	105	0	131	+5.0	395	26.0	6.0
1984	15	3	135	0	130	+12.0	97	12.0	7.0
1985	15	1	98	0	104	+60.0	200	35.0	6.3
1986	20	0	108	0	112	+11.0	639	35.0	5.1
1987	16	2	108	0	104	- 2.0	68	6.0	1.1
1988	17	1	119	2	137	+152.2	125	3.3	0.9
1989	17	0	114	1	144	+1.7	107	12.7	1.5
1990	17	1	112	0	151	- 1.5	127	12.7	2.0
1991	8	1	61	0	163	- 0.7	400	4.0	5.6
1992	10	1	84	0	140	- 1.6	97	10.4	1.9
1993	8	1	89	0	122	+50.1	26	0.2	0.3
1994	11	1	114	0	96	+1.6	383	264.0	6.9
1995	15	0	72	0	107	+549.6	136	2.8	0.9
1996	7	0	93	0	97	- 1.0	60	3.1	2.2
1997	14	2	109	0	94	+75.0	733	14.1	2.9
1998	15	1	109	0	130	+ 38.5	518	16.4	3.3
1999	10	0	103	0	124	+ 258.0	828	67.2	8.4
2000	21	0	85	0	141	+ 112.4	4,640	40.0	1.9
2001	14	0	67	0	67	+5,649.3	2,770	34.8	11.1
<b>Totals</b>	<b>529</b>	<b>26</b>	<b>3152</b>	<b>11</b>	<b>2,872</b>	<b>+7,492.6</b>	<b>14,176</b>	<b>895.4</b>	<b>89.9</b>

## Notes:

- <sup>1</sup> Some authorized projects have not been built and some projects may have been changed pursuant to amendments to permits.
- <sup>2</sup> Includes minor, emergency and Suisun Marsh permits, consistency determinations approved administratively and region-wide permits.
- <sup>3</sup> Net change equals new bay surface less new bay fill. Includes major permits and consistency determinations only for projects through 1987 and significant administrative permits thereafter.
- <sup>4</sup> Includes both major and minor permits.
- <sup>5</sup> Includes major projects only.

## Waterfront Recreation

A material amendment was granted to the Pier 39 Partnership and the Port of San Francisco to allow commercial uses and special events in public access areas at Pier 39. The project involves authorizing activities and services that are either temporary or semi-permanent. The amendment limits the size, number, location and duration of these special events and structures to minimize adverse effects on public access. The amendment also authorizes installation of an expanded ticket kiosk for the Blue and Gold Fleet in the waterfront park.

## Hotel

The Commission issued a material amendment to the Port of Oakland and East Bay Hotel, L.P., to construct an 81-room, three-story addition with a 21,000-square-foot footprint at a location approximately 50 feet west of the existing Executive Inn in Oakland. The authorized project involves approximately 1,346 square feet of new Bay fill composed of 1,000 square feet of rip rap and 246 square feet of pile-supported deck for a public access pier. An additional 30,635 square feet of new public access area will be provided, including a shoreline trail with landscaping, a pier with railing, lighting and benches, and public access parking.

## Suisun Marsh Projects

A marsh development permit was issued to Blackhawk Oil Company, LLC., to construct a 17,000-square-foot natural gas drill pad, conduct exploratory drilling activities, and, if successful, establish a permanent production facility consisting of a heater/separator, meter, water tank and dehydration unit in the primary management area of Suisun Marsh, on Wheeler Island in an unincorporated area of Solano County.

## National Park Service

The Commission approved a proposal by the National Park Service, San Francisco National Maritime Park to restore and rehabilitate the approximately 198,000-square-foot, vacant Haslett Warehouse to include a hotel, restaurant, retail and

maritime uses within a park priority use area. Under the lease agreement, the National Park Service will retain a 9,565-square-foot portion of the ground floor for a museum space and visitor center, and will receive funds to be used for maintenance and rehabilitation of the historic ships within the park.



*The east span of the Bay Bridge. © David Sanger*

## Transportation Improvements

A permit was issued to the California Department of Transportation to replace the East Span of the Bay Bridge, connecting Oakland to Yerba Buena Island. The bridge will be 2.18 miles long and provide five eastbound and five westbound traffic lanes on separated structures. Each bridge deck will include two 10-foot-wide shoulders; a 10.5-foot-wide, two-way bicycle lane; and a five-foot-wide pedestrian lane. The bicycle/pedestrian path will extend from the toll plaza at the eastern end of the bridge to Yerba Buena Island. Six scenic overlooks also will be provided on the south side of the eastbound traffic lanes.

The Commission also issued a permit to the California Department of Transportation to widen State Route 37 across White Slough in Vallejo, Solano County. Approximately 7.5 acres of solid fill will be placed for the highway. The applicant is mitigating the adverse impacts of the authorized fill by creating a 53-acre tidal wetland pursuant to a previously authorized Commission permit. A bike path will be constructed adjacent to the widened highway to improve access in the area, as required in the legislation that allowed fill in the White Slough area for the highway, sewer relocation and a flood control project.

## Wetland Restoration

The Commission issued a permit to the California Department of Fish and Game and the East Bay Regional Park District to restore wetlands at the Eden Landing Ecological Reserve in Alameda County. The project will restore approximately 1,000 acres of inactive salt evaporation ponds to tidal marsh and managed seasonal wetlands. Restoration work includes dredging tidal channels, constructing and removing levees, and installing water control structures. The project will also provide a 10-foot-wide pathway along 15,536 linear feet of levee, a small viewing area and a public parking lot to promote public enjoyment of the newly created wetlands.

The Commission issued a marsh development permit to Montezuma Wetlands, LLC, to use dredged materials to restore 1,782 acres of tidal wetlands and create 48 acres of diked managed marsh on a site near Collinsville in the Suisun Marsh, Solano County. An estimated 17 million cubic yards of dredged materials from San Francisco Bay will be placed on the site to raise the site's elevations to those capable of supporting marsh vegetation. The project also includes a rehandling facility that will be used to dry sediments for on-site use in levee construction and for off-site sales. Two public access areas would be provided, one extending an existing decomposed granite path an additional 3,400 feet along an existing levee, the other, a 4,200-foot-long, decomposed granite path along a new levee leading to a viewing area atop a small hill.

## Residential and Other Facilities

BCDC issued a permit to Kaufman and Broad South Bay, Inc., to construct 128 detached, single-family residences and 12 residential duplex structures (a total of 152 housing units) on a 20.5-acre site in Alameda County. The authorized project also involves the construction of five new public roads and seven private lanes. A 91,476-square-foot waterfront park would be provided for public access.

The Commission also issued a permit to the City of Redwood City and Shores Childcare, LLC., to construct a two-story building to accommodate 12,000 square feet of childcare facilities and 5,000 square feet of office uses on a 1.9-acre site adjacent to Steinberger

Slough in San Mateo County. The project will provide approximately 23,020 square feet of new public access area, landscaping along an existing public access path along 275 feet of Steinberger Slough, and two approximately 900-square-foot seating and viewing areas with benches and seating boulders.

## Energy Projects

BCDC advised the California Energy Commission on the construction and operation of a 540-megawatt addition to the existing 360-megawatt Potrero Power Plant, located adjacent to Pier 70 on San Francisco's southern waterfront, in the City and County of San Francisco. The addition would be a natural gas powered facility and would use water from San Francisco Bay for cooling at the rate of 158,000 gallons per minute. The intake structure and discharge pipes would require dredging approximately 4,250 cubic yards of contaminated sediments and would involve approximately 162,000 square feet of submerged Bay fill, consisting of pipelines, outfalls and intake structures placed on the Bay bottom to minimize disturbance of contaminated sediments.

## Permit Denials

Projects in BCDC's jurisdiction must meet the requirements of the McAteer-Petris Act, the Suisun Marsh Preservation Act, *Bay Plan* and the *Suisun Marsh Protection Plan*. When projects do not meet the terms or conditions in the Commission's laws or plans, the Commission has the authority to deny a permit. In 2001, no permits were denied.

## Administrative Permits

In 2001, 67 projects were approved administratively, authorizing a wide range of activities, including shoreline protection, maintenance dredging, installing boat hoists, installing equipment to improve recycling operations, public access, construction and improvement of single-family residences, habitat restoration and mitigation.

## Suisun Marsh Development Permits

Under the Suisun Marsh Preservation Act, the Commission, Solano County and local governments

review applications and issue marsh development permits for projects in the Suisun Marsh. Applications are reviewed to assure that construction activities and new facilities protect the wetlands, riparian habitats and agricultural lands in the marsh. The Commission reviews applications for projects in the "primary management area," which includes most of the low-lying wetlands. Local governments control projects in the "secondary management area," subject to appeal to the Commission.

In 2001, the Commission approved three permits for projects in Suisun Marsh.

### Emergency Permits

The Executive Director issued two emergency permit actions in 2001. These emergency permits authorized APS West Coast, Inc. to control and extinguish a fire that broke out on the existing industrial dock at Pier 95 in the City of Benicia by cutting a 2,500 square-foot portion of the dock and letting it fall into the Bay. An emergency permit amendment was issued to Point San Pablo Yacht Harbor in Richmond to replace storm-damaged pilings and temporarily raise an existing breakwater.

### Permit Amendments

The Executive Director approved 67 nonmaterial amendments to existing major and administrative permits in 2001 (a decrease from 140 issued in 2000).

### Regionwide Permits

The regionwide permit program began in 1988 as a means of reducing the time required for applicants to receive authorization for routine maintenance and improvement work. Initially eight types of work could be authorized under the regionwide permit program: minor repair and maintenance; outfall pipes; service lines and utility cables; small pilings and boat docks; wildlife improvement structures; repair or replacement of small structures; work on small piers; and drilling test wells. In 1994, the Commission adopted another regionwide permit, which authorizes seismic retrofit projects for State highways and bridges.

As part of the Commission's ongoing regulatory reform efforts, in 1996 the Commission made changes

to the regionwide permits and added a new category, abbreviated regionwide permits. Four new regionwide permits were added to authorize routine maintenance dredging up to 100,000 cubic yards; installation of new service lines and utility cables; routine repair and maintenance of existing pile-supported residential structures; and construction of new temporary facilities no larger than 1,000 square feet.

In 2001, 24 projects were authorized under the regionwide permit program, and eight under the abbreviated regionwide program.

### Federal Consistency Determinations

Under the federal Coastal Zone Management Act, the U.S. Department of Commerce has approved the Commission's coastal management program for the San Francisco Bay segment of the California coastal zone. This approval gives the Commission an opportunity to review federal projects that would not otherwise be subject to California law.

One major federal consistency determination and 10 minor consistency determinations were considered by the Commission in 2001 and found consistent with the Commission's coastal zone management program.

### ENFORCEMENT

The staff monitors projects approved by the Commission and investigates reports of unauthorized fill and construction. To deal with enforcement problems, the Commission can issue permanent cease and desist orders and can require corrective measures. The Executive Director can issue temporary cease and desist orders to stop unauthorized activities. The Commission may impose civil penalties for violations of the law or a Commission permit.

Most penalties are deposited in the Bay Fill Clean-up and Abatement Account. During 2001, \$163,623 in civil penalties were deposited in the account.

The *Enforcement Committee* is made up of members of the Commission appointed by the Chair. It normally includes five members; business may be conducted with a quorum of three members. The Enforcement Committee serves a judicial role by holding administrative hearings to consider the

allegations and evidence in enforcement cases brought by the Commission's staff. After the evidentiary hearing, the Committee makes findings of fact and recommends whether the Commission should issue cease and desist and civil penalty orders. The final decision to issue the orders must be made by the full Commission. A Deputy Attorney General serves as counsel to the Enforcement Committee.

The Commission began 2001 with 149 enforcement cases pending. During 2001, 95 new enforcement cases were initiated and 64 cases were resolved without formal action by the Commission. As a result, the Commission ended 2001 with 180 enforcement cases pending. Also in 2001, the Commission issued four Cease and Desist Orders:

*The Family Gun Club, McGuire and Hester, and Baker Trucking*, at a duck club in the Suisun Marsh, for the unauthorized placement of approximately 3,000 cubic yards of fill at the club, partially located on seasonal wetlands. The Commission ordered the parties to remove and legally dispose of contaminated fill and any other fill not authorized for onsite use by the Commission, remove fill from some destroyed seasonal wetlands and restore them to their former condition, obtain the Commission's approval to retain the clean fill to construct an onsite levee and to create new seasonal wetlands to replace those that would be damaged by the new levee construction, and pay a \$5,000 civil penalty. The parties stipulated to the order.

*The City of Redwood City*, at the Redwood Shores development, Redwood City, for the failure to complete the installation of public access improvements and to prepare legal instruments reserving public access areas, as required by a Commission permit. The Commission ordered the City to complete the improvements and submit legal instruments by specified dates and pay a \$45,000 civil penalty. The City stipulated to the order.

*Ryland Homes*, at the Redwood Shores development, Redwood City, for the failure to complete the installation of public access improvements, prepare legal instruments reserving public access areas, and assign its rights and duties under the permit to two homeowners associations. The Commission ordered Ryland to complete the improvements, submit legal instruments by specified dates, transmit copies of the

approved site plans to the homeowners associations, assign its rights and duties under the permit to the homeowners associations, and pay a \$35,000 civil penalty. Ryland stipulated to the order.

*Richard and Deanna Miller*, at 40 Great Circle Drive, Mill Valley, for the unauthorized placement of riprap on the beach and the unauthorized construction of beach access stairs and a residential addition. The Commission ordered the Millers to remove the unauthorized improvements or obtain the Commission's approval to retain them and to pay a \$40,000 civil penalty, all but \$2,500 of which was stayed as long as the Millers comply with all the terms of the order.

### Other Accomplishments

In June, the staff completed an in-depth review for permit compliance of the Cargill Salt 2001-2002 Maintenance Work Plan. As a result, a non-material amendment was issued to authorize some minor new work to maintain the salt pond system.

To fulfill the Commission's strategic plan goal of improving the enforcement program, the Commission established the *Compliance and Enforcement Task Force*. The task force met three times in the last quarter of the year and proposed changes to the Commission's laws and practices that were considered and approved by the Commission in early 2002.

### Enforcement Effort in Richardson Bay

The Commission's strategic plan required the staff, working with appropriate agencies, to determine the best approaches for removing unauthorized vessels in Richardson Bay and begin implementing the program by June 30, 2001. On August 2, 2001, the Commission considered a staff report and adopted a recommendation that no changes in the Commission's enforcement strategy were needed at this time.

### PLANNING

Environmental writer Harold Gilliam has called the *San Francisco Bay Plan* "the Bay's Magna Carta—a declaration of the Bay's right to live." The

Commission continually reviews the characteristics of San Francisco Bay to better understand the Bay and keep the Bay Plan and its specialized plans up to date. The Commission also carries out studies of the Bay in response to applications of others, such as local governments and property owners, to amend the Bay Plan. Following are planning studies and activities the Commission carried out in 2001.

## Bay Plan Amendments

### Oakland Army Base

In January 2001, the Commission amended the *San Francisco Bay Area Seaport Plan* (Seaport Plan) and the *San Francisco Bay Plan* at the request of the Oakland Base Reuse Authority and the Port of Oakland. The amendment deleted approximately 175 acres of port priority use area from the 395-acre Oakland Army Base, designated an additional 45 acres of land adjacent to the Army Base and the Port as port priority use area, and deleted proposed new marine terminals that would have required 127 acres of new Bay fill to construct.

Although the Bay Plan and the Seaport Plan designated the entire Army base as a port priority use area, the Commission determined that the proposed new configuration of the Port of Oakland's marine terminals and joint intermodal facility would enable the Port to operate more efficiently, thereby significantly increasing the Port's container cargo throughput capability. Additionally, the Commission determined that with this increased efficiency, the Port could exceed the Seaport Plan throughput assigned to the Port—24,025,000 metric tons of container cargo annually—by approximately 500,000 metric tons by the year 2020, the Seaport Plan's cargo forecast horizon. Moreover, the Commission found the increased efficiency could reduce the Seaport Plan regional container cargo throughput shortfall from 1.2 million metric tons annually to 0.7 million metric tons annually by 2020. The Commission further determined that the Port could achieve the new cargo throughput capability without constructing new marine terminals at the Bay Bridge and Army Terminal sites as provided in the Seaport Plan, thereby eliminating the need to fill an additional 127 acres of the Bay for the terminals.

## Public Access and Wildlife

In March 2001, the Commission amended the *San Francisco Bay Plan* public access findings and policies to address the issue of public access and wildlife compatibility. The amendment was the conclusion of the Commission's 18-month Public Access and Wildlife Compatibility Project, in partnership with the Association of Bay Area Governments' Bay Trail Project. The study examined various components of the compatibility of public access and wildlife, including a review and analysis of available scientific information; support of and participation in new San Francisco Bay field research; and creation, distribution, tabulation and analysis of a nationwide survey of natural resource area and park and recreation managers. Also, a broadly representative Policy Advisory Committee was formed to help guide the study and



Providing public access while protecting wildlife.

assist Commission staff in analyzing information and developing recommended achievable, effective and consensus-based findings and policies.

The staff's research and the consensus recommendations on proposed new and amended Bay Plan public access findings and policies formed the basis of the staff's report *Public Access and Wildlife Capability* (March 2001). The Commission held a public hearing on the staff report and recommended findings and policies in January 2001. In March 2001, the Commission amended the Bay Plan as recommended by staff. The revised findings and policies reflect current knowledge on the interactions of public access and wildlife and provide more detailed

policy guidance on providing maximum feasible public access while protecting wildlife from significant adverse effects.

### **San Francisco Bay Ecology and Habitat Study**

The process of amending the *San Francisco Bay Plan* findings and policies addressing fish and wildlife and marshes and mudflats began in 1999 when the Commission's staff initiated research on a background report on the Bay's ecology. Because of the interconnected nature of the Bay's habitats, the

#### **PUBLIC ACCESS AND WILDLIFE REPORT**

The Commission's *Public Access and Wildlife Capability* report is a pioneering effort in the process to better understand the complexities of providing public access to significant natural resources such as San Francisco Bay in a manner that recognizes and protects wildlife resources. Requests for copies of the report have been received from throughout the nation and abroad. Bound copies of the report are available at the Commission's office, and it can be read or downloaded from the Commission's website (<http://www.bcdc.ca.gov>).

In October 2001, the Commission received an award for outstanding work in implementing the U.S. Environmental Protection Agency's *San Francisco Estuary Comprehensive Conservation and Management Plan* for the Public Access and Wildlife Compatibility Project. The award was presented by the Friends of the Estuary at the San Francisco Estuary Project's State of the Estuary Conference held in San Francisco.

The next step in the study is to revise the Commission's advisory *Public Access Design Guidelines* in 2002 to include information on specific siting, design and management strategies to avoid or minimize adverse effects of public access on wildlife.

Commission decide to undertake the update of the findings and policies addressing marshes and mudflats and fish and wildlife together. In 2000, the staff continued research on the background report and convened a panel of 15 scientists with expertise on the Bay to learn more about the Bay's subtidal areas, a subject area new to the Bay Plan. The panel's insights were used to complete the subtidal habitat chapter and associated subtidal findings and policies, which were incorporated into the background report.

In September 2001, the background report, *San Francisco Bay Ecology and Related Habitats*, was completed and sent to the Commission and the public for consideration. In an effort to adequately address the breadth of scientific material in the report, several scientists with expertise on the Bay were invited to speak to the Commission about the Bay's habitats, fish, other aquatic organisms, wildlife, invasive species and Bay habitat restoration. Public hearings on the background report will continue in 2002. The Commission also will consider proposed language changes to the fish and wildlife and marshes and mudflats findings and policies, the addition of a new Bay Plan policy section on subtidal areas and an update to the wildlife priority use area designations and Bay Plan map notes. The Commission is scheduled to vote on the proposed Bay Plan changes in spring 2002.

#### **Navigational Safety and Oil Spill Prevention**

In July 2001, the Commission added a new policy section to the *San Francisco Bay Plan* to address navigational safety and oil spill prevention. The revisions were based on the staff's report, *Navigational Safety and Oil Spill Prevention in San Francisco Bay* (2001). The Commission held a public hearing on June 7, 2001, to consider the report and approved the plan changes on July 19, 2001.

#### **San Francisco Waterfront Special Area Plan Implementation**

The Commission comprehensively revised its *San Francisco Waterfront Special Area Plan* in 2000. The amended plan includes implementation requirements to ensure that public benefits will be provided in a timely manner, consistent with development and

available resources. It also includes policies to foster greater coordination between BCDC and the Port of San Francisco to ensure that the policies of the plan are implemented successfully.

In April 2001, BCDC and Port of San Francisco staffs held the first monthly, joint staff coordination meeting as called for in the Special Area Plan. These meetings, unlike project-specific meetings, provide a forum for the staffs of both agencies to develop consistent interpretations of plan policies to ensure timely and coordinated review of proposed waterfront projects by the agencies.



A special area plan addresses development along San Francisco's waterfront.

In a July 2001 briefing, BCDC and Port staff reported to both Commissions that Pier 34 was being removed on schedule, as specified in the Special Area Plan, and that planning for the Brannan Street Wharf Park had commenced. A Citizens Advisory Committee was formed and consultants hired to develop a preferred conceptual design for the park. The Committee narrowed the field of design concept options to three by the end of 2001. The Port issued a request for proposals for an historic preservation consultant to prepare a nomination for a waterfront historic district. The consultant was hired and a final draft of the nomination was developed. In July, BCDC staff completed the redesign and layout of the Special Area Plan. In August, the Commission's Design Review Board initiated another implementation measure of the Special Area Plan, holding its first joint meeting with the Port and City's Waterfront Design Advisory Committee.

## Planning Policy Studies

### Power Plant Siting Study

In response to California's energy crisis, the Commission initiated a comprehensive review of its thermal power plant siting policies and site designations. This review is necessary for the Commission to be better prepared to respond to expected proposals for new or expanded thermal power along the shoreline.

Work began on this study in summer 2001. The first phase, a draft report on BCDC's role in the siting of power plants around the Bay and an analysis of the state's energy resources, was completed in the fall.

The Commission's staff also is updating the information on the power plant siting study maps, which identify locations that are inappropriate for the siting of thermal power plants because of conflicts either with natural or cultural resources, with the Commission's priority land use area designations or with public access required as a condition of a Commission permit. The maps also identify areas around the Bay where certain ancillary facilities, such as transmission lines, may be located in a manner that would not conflict with Bay resources or public access. The maps will be converted to a digital geographic information system (GIS) format that will be available for viewing on the Commission's website.

The Commission has contracted with GreenInfo Network, a non-profit organization specializing in GIS mapping of natural and cultural resources in the Bay Area, to assist in updating the maps. Additionally, the Commission hired an intern to assist with research and digitizing of the new information. When completed, the study maps will be a series of data layers depicting sensitive habitats, parklands, public access and other natural and cultural resource information around the Bay shoreline. This work will be completed in fall 2002.

### Mitigation Study

In 2001, the Commission staff began reviewing the *San Francisco Bay Plan* policies on mitigation. The mitigation policies have not been updated since their initial adoption in 1985. Since that time, scientific

understanding of ecological relationships and habitat enhancement, restoration and creation has increased, and specific policy challenges regarding mitigation for unavoidable adverse impacts on the Bay's natural resources have continued to emerge. The Commission's review of its findings and policies on



The Bay's shoreline provides essential habitat for many species.  
© David Sanger

Bay ecology and habitats (see the discussion of the Bay Plan amendment regarding Bay ecology and habitats) has informed the review and update of the mitigation policies. Additionally, the *San Francisco Bay Wetlands Ecosystem Goals Project* report, completed in 1999, provides significant new information for the Commission's review and update of its policies related to mitigation for the loss of wetland habitat. The mitigation study will be completed in spring 2002, and the Commission will consider staff-recommended revisions to the Bay Plan mitigation policies and new findings in mid-2002.

### Nonpoint Source Pollution Control Program

The San Francisco Bay is considered an "impaired water body" under criteria developed by the State Water Resources Control Board. In 2000, the state Resources Agency prepared the *2000 Plan for California's Nonpoint Source Pollution Control Program* (California Plan) to help improve water quality in the state by controlling pollutants entering the state's waters, such as San Francisco Bay, from "nonpoint" sources. Nonpoint source pollution comes from rainfall that flows over the ground, picking up and carrying away pollutants and depositing the material in streams, rivers and bays. Polluted runoff is the leading cause of

water quality impairment in California and the nation. To help control nonpoint source pollution, the Resources Agency has requested BCDC to develop a five-year plan to implement the California Plan in San Francisco Bay.

In early 2001, BCDC received a grant from the National Oceanic and Atmospheric Agency and began work on BCDC's *Nonpoint Source Pollution Report and Proposed Work Program*, which the Commission subsequently adopted in September 2001. The Work Program is directed at preventing or reducing nonpoint source pollution of San Francisco Bay. The adopted work program has five tasks:

- prepare a planning policy report and recommended update of the *San Francisco Bay Plan* findings and policies for water quality that are relevant to nonpoint source pollution;
- prepare a planning policy report and recommended update of the *San Francisco Bay Plan* findings and policies for recreation that are relevant to marinas and nonpoint source pollution;
- review and update BCDC's special permit conditions regarding water quality;
- revise BCDC's Memorandum of Understanding with the State Water Resources Control Board and San Francisco Bay Regional Water Quality Control Board; and
- continue coordinating with the State Board, Regional Board and California Coastal Commission, and increase the Commission's level of participation in nonpoint source pollution control programs.

Because of concerns expressed by recreational boating organizations during the review of the work program, the staff revised the work program to include boating organizations, marina operators and others in the collaborative process. In November 2001, the staff held a public workshop to discuss nonpoint source pollution issues in San Francisco Bay as they relate to marinas and recreational boating. The workshop attendees included marina owners and operators, recreational boating organizations and representatives of state agencies, who agreed on the importance of a regional forum for marina- and boating-related nonpoint source pollution issues. Consequently, additional workshops are planned.

## Partnerships

### San Francisco Bay Water Transit Authority

Throughout 2001, BCDC's staff worked with the new San Francisco Bay Area Water Transit Authority (WTA), an agency created by the California Legislature, to prepare a plan for developing and operating expanded ferry service on the San Francisco Bay. BCDC staff assisted on WTA's technical advisory committee and its ad hoc Environmental Impact Report review committee. The staff also worked with the WTA to identify terminal locations that would not require extensive dredging, would not damage sensitive aquatic and wildlife habitats and would allow for the development of an intermodal transportation system to reduce the public's reliance on automobiles and the amount of land devoted to automobile parking at each possible terminal.

The staff also suggested broad concepts for terminal design that would ensure that usable, enjoyable public access to the shoreline is included as part of terminal development and use. As the WTA moves forward to meet its legislative mandate, BCDC will continue to assist the agency with issues affecting habitats, dredging, public access and terminal design and location. Additionally, the Commission will review its existing transportation policies and identify changes that should be made to accommodate expanded ferry service on the San Francisco Bay, an important objective the Commission identified in its Bay Plan transportation policies.

### San Francisco Bay National Estuarine Research Reserve

In partnership with the National Oceanic and Atmospheric Administration (NOAA), BCDC, San Francisco State University, California Department of Parks and Recreation, East Bay Regional Parks District, California State Lands Commission and the Solano County Farmlands and Open Space Foundation are working to establish the nation's twenty-sixth National Estuarine Research Reserve (NERR) in San Francisco Bay. Established under the federal Coastal Zone Management Act, NERRs provide opportunities for long-term estuarine research, education and interpretation of healthy estuaries representative of

different regions and estuary types nationwide. Three sites around the Bay are proposed for inclusion in the San Francisco Bay NERR system. These sites are China Camp State Park in Marin County, Rush Ranch Open Space Preserve in Solano County and Browns Island Regional Shoreline in Contra Costa County, located in the Delta just outside the Commission's jurisdiction. It is anticipated that the NERR will be designated in 2002 and that BCDC will be requested to serve on its Management Advisory Board.

### Joint Venture

The San Francisco Bay Joint Venture, established in 1995, is one of several Joint Ventures throughout the United States and Canada created to protect wetlands for migratory waterfowl. The San Francisco Bay Joint Venture is a collaborative effort involving a range of interested parties, including resource and regulatory agencies, environmental organizations, business and agriculture. Its goal is to protect, restore, enhance and increase all types of wetland, riparian and associated upland wildlife habitat throughout the San Francisco Bay region to benefit waterfowl and other fish and wildlife populations. As a founding member of the San Francisco Bay Joint Venture, BCDC serves on the Management Board, supporting the organization in its restoration goals, objectives and strategies, which are founded primarily on the *Baylands Ecosystem Habitat Goals* report, a regional vision for the restoration of San Francisco Bay, and the Joint Venture's implementation strategy, entitled *Restoring the Estuary*.

### Seaport Planning

The *San Francisco Bay Area Seaport Plan* provides for monitoring of waterborne cargo and marine terminal use to aid in assessing requests for deletion of any terminal or port priority use area from the plan or conversions of bulk terminals to container terminals. The staff has monitored the regional cargo activity since 1994. Data reported for 2000 activity indicates that although total maritime cargo (18,000,000 metric tons) has continued to increase since 1994, total cargo has not kept pace with the Seaport Plan forecast since meeting the forecast that year. However, a breakdown of cargo passing through Bay Area ports during the period 1994 to 2000 reveals

that container cargo, the principal shipping mode, closely follows the forecast, but the bulk cargoes continue to register less than the forecast amount.

## **Airport Planning**

Since 1998, San Francisco International Airport (SFO) has been evaluating the reconfiguration of its runways in the Bay. The Commission has been involved in this process in several ways. In June 1999, SFO began providing funding for BCDC's involvement in regional airport planning, project development, environmental review and future processing of an expected permit application for the runways. This long-term relationship is required because the proposal could involve the largest fill project ever considered by the Commission. Public interest in the project has been unprecedented, largely because of the project's potential impacts and its significance to the entire Bay Area. The Commission has engaged a special consultant to participate in the interagency coordination effort required by the magnitude of this regional proposal.

In 2001, BCDC continued its involvement in the regional airport planning process. Three BCDC commissioners serve on the Regional Airport Planning Committee (RAPC), which includes representatives from the Metropolitan Transportation Commission, the Association of Bay Area Governments, the region's airports, the Federal Aviation Administration and the California Department of Transportation. Although the Regional Airport System Plan was updated in 2000, quarterly RAPC meetings are held to elaborate the plan and consider other issues.

As part of a multi-agency task force, BCDC worked with other regulatory agencies and SFO to refine the airport's project alternatives, while providing ongoing, coordinated environmental review of the proposal. BCDC also continued to participate in ongoing peer review of technical reports on water quality, sedimentation and hydrodynamics. An Independent Scientific Panel, organized by the National Oceanic and Atmospheric Administration, will reconvene in 2002 to assure the public that the environmental review of the airport's proposal is based on the highest quality analyses.

SFO provided several reports and briefings to the Commission and the public on the complex issues of aviation planning and project development. The airport's reports were evaluated by BCDC's consultants and their comments were posted on the Commission's website. In November 2001, the voters of San Francisco approved a ballot measure that requires a majority vote of the electorate of the city to approve any Bay fill of more than 100 acres proposed by a City department. This new requirement will delay the airport's application for a BCDC permit. Also, the uncertainties in the aviation industry caused by the events of September 11 have affected the airport's plans. However, SFO continues its comprehensive evaluation of the runway reconfiguration. As this process continues, BCDC remains dedicated to encouraging public participation and to ensuring that the airport's proposed project will comply with the McAtteer-Petris Act.

## **Smart Growth**

In 2001, BCDC continued its participation in regional programs to address sprawl and create alternative development strategies that will serve the Bay Area in the coming decades. This work is prompted by population projections estimating an increase in the Bay Area of one million inhabitants and 250,000 commuters from surrounding counties by 2020.

As one of five regional agencies involved in transportation planning, environmental protection and local government coordination, BCDC has supported the development of a coordinated smart growth strategy for the region. Simultaneously, the group has worked to identify and obtain the regulatory changes and incentives that would be needed to implement a new growth vision in the Bay Area. Additionally, the Bay Area Alliance for Sustainable Development (a coalition of more than 40 regional organizations, including BCDC) began an ambitious public participation exercise to reach consensus on and generate support for a regional "livability footprint"—a preferred land-use pattern to suggest how the Bay Area could grow in a smarter and more sustainable way. The two efforts have been combined into a single project with the goal of addressing the region's mounting traffic congestion, housing affordability crisis and shrinking open space.

### NOAA FELLOW PROGRAM

The Coastal Services Center of the National Oceanic and Atmospheric Administration has selected the Commission to receive a Coastal Management Fellow for two years beginning in August 2002. The Fellow will work collaboratively with key federal, state and local environmental agencies and organizations to develop a science-based, volunteer water quality monitoring program for marinas in San Francisco Bay, to conduct pilot monitoring projects at selected marinas, to evaluate the successes and failures of those projects, and to make recommendations for continued water quality monitoring at marinas around the Bay. The Fellow's work will help the Commission and other agencies and organizations to better understand whether and to what extent marina-related nonpoint source pollution is a problem in the Bay; whether additional Commission and other local, state or federal regulatory controls and education programs are warranted to resolve the problems; and what those efforts should be.

In September and October 2001, more than 1,000 people participated in county-based workshops to identify the most appropriate locations in their counties for future growth, and the regulatory changes and incentives needed to implement this vision. Participants also considered the character and design of new development. The countywide smart growth visions developed at the nine workshops were distilled into three thematic regionwide alternatives in consultation with local representatives from each county. These three scenarios will undergo further analysis in early 2002.

BCDC's participation in the smart growth effort is being supported by NOAA, which has dispatched a staff member to work under BCDC's direction on this issue for two years.

### Coastal Impact Assistance Program

BCDC staff responded to a solicitation from the state Resources Agency for project proposals for federal Coastal Impact Assistance Program funds. Staff submitted three proposals and, at the request of the Resources Agency, agreed to sponsor a fourth project. The proposals were revised and approved and, in December, the Commission was awarded \$1,175,000 for four projects, including \$100,000 for project overhead costs.

The projects are:

- San Francisco Bay Wetland Restoration Program—\$110,000;
- Regulatory Assistance and Bay Management Partnerships—\$180,000;
- San Francisco Bay Trail Implementation and Construction—\$685,000; and
- San Francisco Bay National Estuarine Research Reserve Headquarters—\$100,000.

### Coastal Management Program Assessment

In July 2001, NOAA approved the Commission's Coastal Management Program Assessment and Strategy. The objective of the assessment is to evaluate the Commission's Management Program for the San Francisco Bay segment of the California coastal zone, to determine areas where the program can be improved, and to prepare a strategy of priority program enhancements corresponding to a series of coastal issues developed by NOAA. Federal grants will be awarded during fiscal years 2001 through 2005 to fund several program improvements identified in the Assessment and Strategy.

To broaden public participation in the assessment, the Commission staff held two workshops in February 2001 to allow the public to comment on the Commission's Coastal Management Program. Participants were asked what they believe is and is not going well with BCDC's program for the Bay, how BCDC could do a better job in carrying out its program and what the Commission should undertake that it is not now doing. The Commission held a public hearing in March 2001 to allow additional public comment on BCDC's program and the draft assessment. After the

public hearing, staff refined the assessment based on the comments from the public and the Commission.

Subsequently, the staff developed a strategy of priority program enhancements based on the assessment and incorporated the priority work areas developed during the Commission's June 2000 Strategic Plan retreat. Included in the strategy are proposed program changes and implementation actions, and a general work plan. In March, the Commission approved the Assessment and Strategy, and staff submitted the document to NOAA. The Power Plant Siting Study and the Nonpoint Source Pollution Control Study—both program priority enhancements—were initiated in 2001 with funding from NOAA.

### **Bay Plan Recreation Policy Update**

In March 2001, the Commission's Priority Use Task Force recommended, in part, that the Commission should undertake a comprehensive review of its priority use designations to ensure that they remain relevant. The task force also recommended that Bay Plan recreation policies be reviewed first.

The staff began the recreation policy update project in March 2001 by drafting a work program for the project and identifying issues to be addressed. In December 2001, staff prepared a recommended approach for the Commission's consideration that would bifurcate the project into segments. The first segment would focus on federal military bases designated in the Bay Plan for waterfront park and beach priority use, and the second segment would be a comprehensive update of the recreation policies.

### **OIL SPILL PREVENTION AND RESPONSE PROGRAM**

San Francisco Bay is the fifth busiest port in the United States, with annual arrivals of approximately 3,000 oil tankers and barges. After the disastrous Exxon Valdez oil spill in Alaska, the State Legislature passed the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 (OSPRA), giving the Commission additional responsibilities. The waters of the Bay are confined and currents very strong;

consequently, damage from a large oil spill could adversely affect a variety of Bay resources such as wildlife, water quality, recreation, business and property. Because BCDC has regulatory authority over the waters and shoreline of San Francisco, Suisun and San Pablo Bays, continued coordination with agencies working under OSPRA is essential for effective oil spill prevention and response.

In July 2001, the Commission amended the *San Francisco Bay Plan* to address navigational safety and oil spill prevention. The new language provides policy direction for projects that raise navigational safety and oil spill prevention issues in San Francisco Bay. The amendment was the culmination of two years of work with the U.S. Coast Guard, the California State Lands Commission, the Office of Spill Prevention and Response, the U.S. Army Corps of Engineers, the San Francisco Bar Pilots, the Harbor Safety Committee of the San Francisco Bay Region and many others actively involved in the Bay's maritime community.

The Commission continued to serve on the Harbor Safety Committee of the San Francisco Bay Region throughout 2001. This committee meets regularly in an effort to advance navigational safety goals. Because of the many public and private agencies, organizations and businesses that work together to prevent marine accidents, San Francisco Bay continues to have an outstanding navigational safety record, and there were no significant oil spills in the Bay in 2001.

BCDC's oil spill staff also continues to assist in developing and refining policy, guidelines and regulations pursuant to the OSPRA, such as tug escort regulations and required reviews of oil spill contingency plans, and provides input on BCDC permit proposals that raise oil spill issues.

### **LITIGATION & LEGAL SUPPORT**

In 2001, the Commission was involved in the following lawsuits:

**Robert Childers and Phillip Nones.** In December 1997, the Commission issued Cease and Desist Order Nos. 6-97 and 7-97 to Phillip Nones and to Robert Childers, respectively, for the unauthorized moor-

ing of vessels and related floating structures in Alviso Slough in the South Bay. Subsequently, when Mr. Nones and Mr. Childers failed to comply with the orders, the Commission filed suit against them. Thereafter, the trial court issued a final judgment in favor of the Commission that required the removal of the unauthorized vessels and structures. Mr. Nones and Mr. Childers still failed to comply with the orders. In December 2001, the boats owned by Mr. Nones were removed by crane and taken to a secure boatyard, where they will be held for 90 days. After 90 days, the boats will be destroyed or, if Mr. Nones assumes payment of the storage fees, returned to Mr. Nones for relocation to a legal berth or outside the Commission's jurisdiction. Although Mr. Childers had previously removed his boats from the slough, other structures, including moorings and docks also owned by Mr. Childers, were removed to ensure that his boats could not return. BCDC accomplished the removal of the boats and structures with cooperation from the Santa Clara Valley Water District, City of San Jose Code Enforcement, the Santa Clara County Parks and Recreation Department, the San Jose Police Department and the California Highway Patrol.

**Reginald Burgess.** In 2000, Reginald Burgess filed suit in federal court against the City of Vallejo and several other entities, including the Commission. Mr. Burgess resides on a boat moored at the Vallejo marina. His suit alleged that he was the victim of racial discrimination and that various water quality violations at the marina were not being properly addressed. The staff identified several violations at the marina that were satisfactorily resolved. The case was dismissed in early 2001, but Mr. Burgess subsequently filed a notice of intent to appeal. The appeal is pending.

**McMahon v. Pier 39.** Mr. McMahon leased a berth at Pier 39 from which he operated a yacht charter business. Mr. McMahon desired to expand his business. Mr. McMahon filed a lawsuit that names several parties, including the Commission. The lawsuit arises out of Pier 39's alleged refusal to allow him to expand his business and its alleged attempts to move him to a less desirable berth. Mr. McMahon raised numerous claims in his lawsuit, including restraint of trade, fraud, breach of contract, trespass, nuisance, and unfair business practices. In November 2001, the case against the Commission was dismissed.

**Gossamer Isle Owners Association.** In June, 2001, the Gossamer Isle Owners Association filed a complaint against the Commission, the City of Redwood City, Ryland Homes, another developer that is the predecessor to Ryland, and a City contractor. The complaint alleges, among other things, that the Association had no notice of a Commission permit and its conditions that require public access improvements on the Association's property; that the Commission failed to enforce the terms of its permit and colluded with Ryland to allow the violations of the permit to persist without disclosure to the Association; and that some of the public access requirements, such as public access to parking spaces within the subdivision, create an unsafe condition.

In July 2001, the court granted a preliminary injunction to prevent the installation of public access parking and directional signs on Association property. Since that time, the Attorney General's office has met with the parties to discuss the plaintiff's proposals for settlement and the Commission has so far rejected two proposals. Although settlement discussions continue, in December 2001 the Attorney General's office filed a Motion for Summary Judgment in favor of the Commission. The motion will likely be heard in early 2002 and a trial date is set for August 2002.

**Waldo Point Harbor/Gates Co-op.** In 1971, the Commission issued a permit to authorize for 20 years the operation of the Waldo Point Harbor, a houseboat marina located north of Sausalito in Marin County. In 1988, the Harbor owners filed suit against the Commission, the State Lands Commission, and Marin County challenging the agencies' regulatory control over the Harbor. In 1992, the Harbor's permit expired. Marin County and BCDC approvals are required to re-authorize the Harbor.

In 1993, the Commission entered into a settlement agreement with the Harbor owners, State Lands Commission, Marin County, and Gates Cooperative (a group of boat dwellers located without a permit within the Harbor) that includes a land exchange to provide the Harbor with title to State property on which private docks and berths had been built and would provide the State with an open water area in the center of the Harbor with an adjacent 1.1 acres of upland along the shoreline for a public park. The settlement was extended in 1995, 1997, and 1999.

In March 2001, the Commission again agreed to extend the deadline by which the Harbor owners must apply for a BCDC permit to May 1, 2002. In October 2001, the Marin County Planning Commission recommended that the Board of Supervisors certify a final environmental impact report for the project. The Board of Supervisors will likely consider the project in early 2002. County action is needed before the Harbor owners may file a permit application with the Commission.

#### **Pacific Gas and Electric Company Bankruptcy.**

The Commission staff worked with the Attorney General's Office to respond to the bankruptcy filing by Pacific Gas and Electric Company to protect the Commission's authority as it applies to the company.

#### **Federal Consistency Review of Corps of Engineers Revised Nationwide Permits.**

Commission staff reviewed and commented on the U. S. Army Corps of Engineers' (Corps') issuance of revised nationwide permits, which the Corps uses to authorize minor activities that require a permit under Section 404 of the Clean Water Act. The staff determined that the Corps' action was consistent with the Commission's federally approved management program for the San Francisco Bay segment of the California coastal zone so long as each nationwide permit includes a condition that it not become effective until the Commission has either issued a permit for the proposed activity or has concurred with an individual consistency determination submitted by the project proponent.

### **DREDGING**

In 1990, the Commission joined four other regulatory agencies—the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the San Francisco Bay Regional Water Quality Control Board and the State Water Resources Control Board—to develop a strategy for addressing the problems associated with dredging and disposal activities in the region. These problems include limited disposal site capacity and potential environmental impacts. The result of this decade-long process is the Long Term Management Strategy (LTMS) program, which is

intended to decrease in-Bay disposal of dredged material while increasing reuse of dredged material and increasing the use of the federally designated deep ocean disposal site.



Dredged material reuse site near Collinsville. © David Sanger

After an extensive environmental review process, the LTMS agencies developed the *LTMS Management Plan* to implement the long-term dredging and disposal strategy for the region. Preparation of the Management Plan involved working closely with the interested parties through a series of public workshops. The final plan was published in late 2001. As part of the LTMS, the Commission continued to coordinate with other agencies to implement beneficial reuse options in the Bay region, including use of dredged material to restore wetlands at the former Hamilton Army Airfield in Marin County.

In May 2001, to implement the LTMS, the Commission approved revisions to BCDC's regulations regarding dredging, dredged material disposal and reuse. The revisions were later approved by the Office of Administrative Law (OAL) and the federal Office of Ocean and Coastal Resource Management (OCRM).

Also, in 2001, the OAL and OCRM approved Bay Plan Amendment No. 3-00, which had been adopted by the Commission in late 2000 and changed the Bay Plan findings, policies, and maps related to dredging and dredged material disposal and beneficial use to implement the LTMS program.

## Dredged Material Management Office

The Commission continued to participate with its LTMS partner agencies, and the State Lands Commission, in the Dredged Material Management Office (DMMO), a pilot program established in 1995 to coordinate dredging permit applications. In 2001, the National Marine Fisheries Service (NMFS) often attended DMMO meetings when projects involving endangered species or essential fish habitat were presented. NMFS's attendance further improves agency coordination on projects.

The DMMO held its second annual public meeting in April 2001 and presented its annual report. The DMMO agencies met 26 times in 2001 and reviewed approximately 50 dredging projects. In 2001, the DMMO reviewed Public Notice 01-01, *Implementation Guidance for the Inland Testing Manual*, which was subsequently published in October. The DMMO also reviewed the draft sediment analysis plan guidance, Public Notice 99-4, and developed a draft document for polychlorinated biphenyl congener analysis, which is expected to be published for public review in 2002.

## LEGISLATIVE AFFAIRS

Several bills that would affect the Commission and the Bay Area were considered by the Commission in 2001.

**SB 244.** Senate Bill 244, Environmental Quality: Airport Expansion and Enlargement Projects (by State Senator Jackie Speier), amended the California Environmental Quality Act (CEQA) in regards to the San Francisco International Airport (SFO) to extend the period for public review of the draft environmental impact report and provide for review and approval of SFO's expansion plan by any local city and/or county where public trust tidelands or interests would be acquired to accommodate expansion of SFO. Because the legislation does not directly affect BCDC's consideration of SFO's expansion plan, the Commission did not take a position on SB 244. The bill passed the Legislature and was signed into law by Governor Davis.

**AB 104.** Assembly Bill 104, State Coastal Conservancy: Motor Vehicles: Environmental Impacts and Mitigation (by Assembly Member Joe Nation), would have imposed a fee of up to four dollars on registration of automobiles in the nine Bay Area counties. The funds would be placed in the San Francisco Bay Area Conservancy Account. This account could be used by the Coastal Conservancy for grants and projects that prevent, reduce or mitigate the adverse impacts of motor vehicles and related facilities through the acquisition, protection, restoration and enhancement of open space, streams, creeks, wetlands, watersheds and trails. The Commission supported the bill. AB 104 passed the Legislature, but was vetoed by Governor Davis.

**AB 107.** Assembly Bill 107, Vessels: Wrecks and Wrecked Property; Ballast Water (by Assembly Member Joe Nation), would have streamlined the process for removing derelict and abandoned vessels from state waterways, including San Francisco Bay. The Commission took a position of support for AB 107; however, Assemblymember Nation subsequently made AB 107 into a two-year bill that will be considered in the next legislative session.

**AB 715.** Assembly Bill 715, Oil Spill Prevention and Response: Ballast Water (by Assembly Member Howard Wayne), amended the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act to clarify ambiguities in the Act, to amend sections relating to oil spill drills and to make a series of technical amendments, including adding the BCDC to relevant sections of the law. The Commission supported the bill. AB 715 passed the Legislature and was signed into law by Governor Davis.

**AB 1389.** Assembly Bill 1389, San Francisco Waterfront: Cruise Ship Terminal Development (by Assembly Member Kevin Shelley) authorizes the Port of San Francisco and the Commission to approve a cruise terminal and mixed-use development including general office space at Piers 30-32 on the waterfront of San Francisco, provided that certain requirements are met, including funding and construction by the Port of the Brannan Street Wharf public park. The bill includes specific limitations on the general office and non-trust retail space in the cruise terminal development, and also ratifies the adoption by the Commis-

sion of the amendments to the *San Francisco Waterfront Special Area Plan* and related amendments to the *San Francisco Bay Plan* made in 2000. AB 1389 passed the Legislature and was signed into law by Governor Davis.

**AB 1602.** Assembly Bill 1602, California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (by Assembly Member Fred Keeley), put a bond act—Proposition 40—on the March 2002 ballot. The proposition provides for \$2,600,000,000 in State General Obligation bonds for the acquisition, development, restoration, protection and interpretation of park, coastal, agricultural land, air and historical resources. AB 1602 passed the Legislature and was signed into law by Governor Davis. The Commission took a position of support for Proposition 40.

## **CALFED PROGRAM**

In 2001, the Commission voted to become an active participant in the CALFED Bay-Delta Program by signing the CALFED Implementation Plan Memorandum of Understanding (MOU). CALFED is a long-term, comprehensive plan to restore the ecological health and improve water management for beneficial uses of the Bay-Delta system. The CALFED agencies consist of 18 state and federal agencies with management or regulatory responsibilities for the Bay-Delta. Pursuant to the MOU, Commission staff participated on the CALFED Executive and Management Teams, which guide implementation of the CALFED program. Additionally, the Commission participated on the Association of Bay Area Governments' CALFED Task Force.

## WORK PROGRAM &amp; BUDGET

Work Program	FY 00-01		FY 01-02	
	PYs	\$000s	PYs	\$000s
<u>Core Program</u>				
Permits/Consistency Determinations	6.5	971	14.8	1,603
Enforcement	3.5	523	3.8	409
General Planning	4.5	672	5.7	461
Executive, Legal and Legislative Support	4.5	672	5.9	717
Administration, Commission and Clerical Support	6.4	956	9.5	717
Total, Core Program	<b>25.4</b>	<b>\$3,794</b>	<b>39.7</b>	<b>\$4,300</b>
<u>Special Fund Projects</u>				
Aquatic Habitat Policy Development	0.4	50	0	0
Public Access and Wildlife Study	0.6	114	0	0
Caltrans projects Review	1.0	85	1.0	85
Power Plant Siting	3.0	41	0.5	72
Long Term Management Strategy (LTMS)	4.7	183	1.7	79
Clean Boating Program	0.3	9	0.3	9
San Francisco Airport Pre-Application Assistance	0.3	34	0.3	100
Oil Spill Prevention and Response Planning	0.7	98	0.7	98
Regulation Development	0.5	57	0.7	82
Seaport Planning	0.5	39	0.1	11
Water Quality	0	0	1.0	100
Total, Special Fund Projects	12.0	\$682	6.3	\$636
Total Program	<b>37.4</b>	<b>\$4,476</b>	<b>46.0</b>	<b>\$4,936</b>

Budget	FY 00-01 Actual	FY 01-02 Estimated
	(\$000s)	(\$000s)
<u>Expenditures</u>		
Personal Services	\$2,155	\$2,560
Operating Expenses and Equipment	1,972	1,864
Total Expenditures	<b>\$4,476</b>	<b>\$4,936</b>
<u>Funding</u>		
General Fund	\$3,794	\$4,300
Federal Trust Fund	7	0
Reimbursements	682	636
Total	<b>\$4,476</b>	<b>\$4,936</b>

## COMMISSION

The Commission is composed of 27 members who represent federal, state and local governments and the general public. The members all serve at the pleasure of the appointing authority. In 2001, the Commission members and their alternates (shown in parentheses) were:

### Public Representatives Appointed by Governor Davis:

Barbara Kaufman, Chairperson  
(No Alternate)

Robert R. Tufts, Chairperson\*  
(David Thompson\*)

Anne Halsted, Vice Chairperson  
(No Alternate)

Angelo Siracusa, Vice Chairperson\*  
(Thomas Hinman\*)

Roderick McLeod  
(No Alternate)

William Nack  
(No Alternate)

Audrey Rice-Oliver  
(No Alternate)

Arthur Bruzzone\*  
(Woodward Kingman\*)

Richard Wall\*  
(Collen Casey\*)

Christopher Warner\*  
(Wade Hughes\*)

### Appointed by the Senate Rules Committee:

Betsy Cutler  
(John Leonard)

### Appointed by the Speaker of the Assembly:

William Ross  
(Richard Garlinghouse)

### Federal Representatives

U.S. Army Corps of Engineers  
Calvin Fong  
(Jane Hicks)

U.S. Environmental Protection Agency  
Karen Schwinn  
(No Alternate)

### State Representatives

Business, Transportation and Housing Agency  
Randell Iwasaki  
(No Alternate)  
(Larry Magid\*)  
(Donna Campbell\*)  
(Harry Yahata\*)

Department of Finance  
Fred Klass  
(No Alternate)

Regional Water Quality Control Board  
Clifford Waldeck  
(Kristen Addicks)

Resources Agency  
Michael Sweeney  
(Brian Baird)

State Lands Commission  
Paul Thayer  
(William Morrison)

**Local Representative  
Appointed by County Boards of Supervisors:**

Alameda County  
Alice Lai-Bitker  
(Ralph Appezzato)  
(Beverly Johnson\*)

Contra Costa County  
John Gioia  
(Gayle Uilkema)

Marin County  
Annette Rose  
(Cynthia Murray)

Napa County  
Mike Rippey  
(Brad Wagenknecht)

San Francisco County  
Aaron Peskin  
(Wade Crowfoot)

Sue Bierman\*  
(Rod Freebairn-Smith\*)

Santa Clara County  
Liz Kniss  
(Eric Carruthers)

San Mateo County  
Richard Gordon  
(Jerry Hill)

Solano County  
Barbara Kondylis  
(John Silva)

Sonoma County  
Michael James Cale  
(Tim Smith)

**Appointed by the Association of Bay Area  
Governments:**

North Bay Cities  
Joan Lundstrom  
(Steve Messina)

South Bay Cities  
Gus Morrison  
(Dena Mossar)

East Bay Cities  
Rosemary Corbin\*  
(Shirley Dean\*)

West Bay Cities  
Susan Leal  
(Joseph Fernekes)

**Representatives of the Legislature**

Senate  
Senator Tom Torlakson  
(Mark Armstrong)

Assembly  
Assembly Member Carol Midgen  
(No Alternate)

*\*Commissioners or Alternates who left or whose  
appointment to the Commission changed in 2001.*

## 2001 COMMISSION STAFF

### Executive

Executive Director  
Will Travis

Deputy Director  
Steven A. McAdam

Executive Secretary  
Graciela Gomez

Public Information Intern  
Adria Avilla\*

### Regulatory

Assistant Executive Director  
Regulatory, Dredging and Legislative Affairs  
Steven Goldbeck

Chief of Permits  
Robert J. Batha

Principal Permit Analyst  
Andrea Gaut

Permit Analysts  
Lee Huo  
Leslie Lacko  
Michelle Levenson

Bay Design Analysts  
Brad McCrea  
Ellen Miramontes

Bay Design Intern  
Bita Amjadi

Permits Intern  
Tamar Ragir\*

Staff Engineer  
Nathan Newell

Permit Secretary  
Reyna Amezcua

Chief of Enforcement  
Adrienne Klein

Enforcement Analysts  
Ande Bennett  
Lisa Bennett\*  
Allen Brooks  
Jennifer Feinberg

Enforcement Secretary  
Myrna Carter

Dredging Program Analysts  
Carla Chokel  
Brenda Goeden  
Jaime Michaels (on leave of absence)  
Cinamon Silva-Vann

Dredging Program Intern  
Carla Chokel\*

Dredging Management and Legislative Affairs  
Secretary  
Kelly Westenbarger\*

### Planning

Chief Planner  
Jeffry Blanchfield

Senior Planner  
Joseph LaClair

Planners  
Lisa Bennett  
Lindy Lowe  
Caitlin Sweeney  
Linda Scourtis  
Katherine Wood

Planning Intern  
Vivian Matuk

Oil Spill Prevention and Response Analyst  
Nicholas Salcedo

Planning Secretaries  
Rebecca Garcia-Bacon\*  
Arvin Aguinaldo\*

## Legal Services

Staff Counsels  
Jonathan T. Smith  
Ellen Sampson

Deputy Attorneys General  
Joseph Barbieri  
Joel Jacobs

## Administrative Services and Commission Support

Assistant Executive Director,  
Administrative Services  
Howard Iwata

Associate Administrator  
Sharon Louie

Assistant Administrator  
Leslie A. Muse

Budget Officer  
Richard Ng

Accounting Officer  
Sabrina Shui

Contracts Manager  
Sylvia Rios-Abbott

Chief Information Officer  
Chris Besenty

Information Systems Analyst  
Hermin Farhad

Administration Secretary and Receptionist  
Estella Corona

Administrative Intern  
David Giang\*

Administrative Retired Annuitants  
Ellenor Zebbs  
Quezon Ganotise

*\*Changes and resignations in 2001.*

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